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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

EXAMINER

FLETCHER, M

ART UNIT

PAPER NUMBER

2837

DATE MAILED:

05/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/745,672

Applicant(s)
Ono et al.

Examiner
Marlon Fletcher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 21, 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

On page 2, lines 20-24, the phrase "Because, it isfixed in the room" is not a sentence.

On page 3, line 21, after the first word "In", the word "the" should be inserted.

On page 3, line 21, after the word "In", the word "the" should be inserted.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, 3, 4, 6, 7, 18, 20, and 22, are rejected under 35 U.S.C. 102(a) as being anticipated by Takabayashi (6,031,174).

As recited in claim 1, Takabayashi discloses a musical tone signal generation apparatus installing at least one performance operator (1a) which is physically separated from a main unit (2) to issue tone-generation instructions for generation of musical tones in response to manual operations made by a user, said musical tone signal generation apparatus comprising: a musical

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tone signal generator (3) for generating musical tone signals; a storage for storing performance data as discussed in column 3, lines 15-16 and column 5, lines 30-34; an automatic performance controller for playing automatic performance by controlling the musical tone signal generator based on the performance data stored in the storage as discussed in column 3, lines 1-3, and column 7, lines 1-13; and a manual performance controller for controlling the musical tone signal generator to generate the musical tone signals in response to the tone-generation instructions output from the performance operator being manually operated by the user as discussed in column 3, lines 3-10; column 6, lines 42-58; and column 7, lines 53-59.

As recited in claim 3, Takabayashi discloses the musical tone signal generation apparatus, wherein the storage is provided for a musical tune constructed by a plurality of parts so that the storage stores performance data with regard to at least a prescribed part within the plurality of parts and tone color data with regard to all of the plurality of parts, so that the automatic performance controller controls the musical tone signal generator to generate musical tone signals of automatic performance using a prescribed tone color assigned to the prescribed part whose performance data is stored in the storage, while the manual performance controller controls the musical tone signal generator to generate musical tone signals using a tone color which is selected from among tone colors designated by the tone color data other than the prescribed tone color and is assigned to the performance operator as disclosed in the abstract and as discussed in column 2, line 62 through column 3, line 10; and column 3, lines 15-37.

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As recited in claim 4, Takabayashi discloses the musical tone signal generation apparatus installing a plurality of performance operators each of which is physically separated from a main unit to issue tone-generation instructions for generation of musical tones in response to manual operations made by users, said musical tone signal generation apparatus comprising: a musical tone signal generator (3) for generating musical tone signals; a storage which is provided for a musical tune constructed by a plurality of parts, so that the storage stores performance data with regard to at least a prescribed part within the plurality of parts and tone color data with regard to all of the plurality of parts as discussed in column 3, lines 15-16, and column 5, lines 30-34; a tone color assignor for assigning tone colors, designated by the tone color data of the plurality of parts, respectively to the plurality of performance operators as discussed in column 3, lines 34-37, and column 4, lines 52-64; an automatic performance controller for playing automatic performance by controlling the musical tone signal generator based on the performance data stored in the storage as discussed in column 3, lines 1-3, and column 7, lines 1-13; and a manual performance controller for controlling the musical tone signal generator to generate the musical tone signals in response to the tone-generation instructions output from the performance operators being manually operated by the users as discussed in column 3, lines 3-10, column 6, lines 42-58, and column 7, lines 53-59.

As recited in claim 6, Takabayashi discloses the musical tone signal generation apparatus, further comprising: a loader for loading the performance data into the storage from an external as discussed in column 5, lines 30-34; and an assignment activator for automatically activating the

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tone color assignor to proceed to assignment of the tone colors to the plurality of performance operators as discussed in column 5, lines 51-57 and column 5, line 65 through column 6, line 13.

As recited in claims 7, 18, 20, and 22, Takabayashi discloses the musical tone signal generation apparatus, further comprising an informer to inform the user of issuance of a tone-generation instruction being issued by the performance operator in response to a manual operation as discussed column 3, lines 44-47.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 5, 8-17, 19, 21, and 23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Takabayashi in view of Gabriel (5,824,933).

Takabayashi is discussed above. Takabayashi further provides an operator (17) which is a part of the main unit (2), which inherently could be considered to be a control panel. Gabriel further discloses a speaker (4) for sound generation.

As recited in claim 8, Takabayashi discloses a musical tone signal generation apparatus accommodated for multiple users to play music in an ensemble, comprising: a main unit (2); a

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plurality of performance operators (1a-1c), each of which is physically separated from the main unit and is manually operated by each user to issue tone-generation instructions; a storage for storing performance data and tone color data with respect to at least a single musical tune constructed by a plurality of parts respectively corresponding to a plurality of tone colors as discussed in column 3, lines 15-16 and column 5, lines 30-34; a tone color assignor for assigning the plurality of tone colors to the plurality of performance operators as discussed in column 3, lines 34-37 and column 4, lines 52-64; a musical tone signal generator (3) for generating musical tone signals based on the performance data stored in the storage so as to play automatic performance or for generating musical tone signals in response to the tone-generation instructions being issued from each of the plurality of performance operators so as to play manual performance using each of the tone colors assigned to the performance operators; and a speaker (4) for producing musical tones corresponding to the musical tone signals of the automatic performance or manual performance, wherein the plurality of speakers are arranged on the main unit in connection with the plurality of performance operators respectively.

As recited in claim 9, Takabayashi discloses the musical tone signal generation apparatus, wherein each of the plurality of performance operators installs at least a pad whose surface is to be struck by each user to issue a tone-generation instruction as seen in figures 1 and 3.

As recited in claim 11, Takabayashi discloses the musical tone signal generation apparatus, further comprising a sub panel that is mounted on the performance operator to provide manual controls for the automatic performance as seen in figure 3.

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As recited in claims 12 and 13, Takabayashi discloses the musical tone signal generation apparatus, wherein each of the plurality of performance operators further installs an informer which is a speaker (4) that informs the user of issuance of a tone-generation instruction as discussed in column 3, lines 44-47.

As recited in claims 15, Takabayashi discloses the musical tone signal generation apparatus, wherein the storage is provided for a musical tune constructed by a plurality of parts so that the storage stores performance data with regard to at least a prescribed part within the plurality of parts and tone color data with regard to all of the plurality of parts, so that the automatic performance controller controls the musical tone signal generator to generate musical tone signals of automatic performance using a prescribed tone color assigned to the prescribed part whose performance data is stored in the storage, while the manual performance controller controls the musical tone signal generator to generate musical tone signals using a tone color which is selected from among tone colors designated by the tone color data other than the prescribed tone color and is assigned to the performance operator as disclosed in the abstract and as discussed in column 2, line 62 through column 3, line 10; and column 3, lines 15-37.

As recited in claims 16, Takabayashi discloses the musical tone signal generation apparatus, further comprising: a loader for loading the performance data into the storage from an external as discussed in column 5, lines 30-34; and an assignment activator for automatically activating the tone color assignor to proceed to assignment of the tone colors to the plurality of

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performance operators as discussed in column 5, lines 51-57 and column 5, line 65 through column 6, line 13.

As recited in claims 17, 19, 21, and 23, Takabayashi discloses the musical tone signal generation apparatus, further comprising an informer to inform the user of issuance of a tone-generation instruction being issued by the performance operator in response to a manual operation as discussed column 3, lines 44-47.

Takabayashi does not disclose in detail a first manual operable member which is provided for the main unit nor a plurality of speakers. Takabayashi further does not disclose light emitting means.

However, as recited in claims 2 and 5, Gabriel discloses a musical tone signal generation apparatus installing at least one performance operator which is physically separated from a main unit to issue tone-generation instructions for generation of musical tones in response to manual operations made by a user as seen in figure 1, said musical tone signal generation apparatus comprising: a musical tone signal generator for generating musical tone signals as discussed in column 3, lines 21-24 and column 4, lines 24-25; a storage for storing performance data as discussed in column 4, lines 1-5; and first manual operable members (26-34) as discussed in column 4, lines 24-34, and second manual operable member (20), each of which is manually operated by the user to control the musical tone signal generator in accordance with a prescribed function, wherein the first manual operable member (26-34) is provided for the main unit while the second manual operable member (20) is provided for the performance operator.

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As recited in claim 8, Gabriel discloses a musical tone signal generation apparatus, comprising: a plurality of speakers (16) for producing musical tones corresponding to the musical tone signals of the automatic performance or manual performance, wherein the plurality of speakers are arranged on the main unit in connection with the plurality of performance operators respectively.

As recited in claim 10, Gabriel discloses a musical tone signal generation apparatus, further comprising a control panel (26-34) that is mounted on the main unit to provide manual controls for the automatic performance and the manual performance as discussed in column 4, lines 24-34.

As recited in claim 10, Gabriel discloses a musical tone signal generation apparatus, wherein the informer is a light emitter that radiates light in response to issuance of a tone-generation instruction as discussed in column 5, lines 15-22.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Gabriel with the apparatus of Takabayashi, because Gabriel enhances the apparatus of Takabayashi by providing teachings wherein manual performance can be provided by both the main unit and a separate manual unit. Takabayashi further provides an operator (17) which is a part of the main unit (2). Takabayashi does not disclose the details of the operator. Gabriel provides the same and further discloses the functions of the first and second control units. Thereby, Gabriel provides enhancement to the teachings of Takabayashi. Gabriel

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further provides enhancement to Takabayashi by providing plural speakers which merely provides sound enhancement and light emitting means which provides the user with an indicator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon Fletcher whose telephone number is (703) 308-0848.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi, can be reached on (703) 308-3370. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

MTF

May 20,


MARLON T. FLETCHER
PATENT EXAMINER